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10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Statement of Issues Against:

Case No. S-370

14 NANETTE GRACE VILLONES
14026 Rio Lobo Circle
15 Corona, CA 92880

STATEMENT OF ISSUES

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
21 her official capacity as the Executive Officer of the Respiratory Care Board of California,
22 Department of Consumer Affairs.

23 2. On or about July 13, 2006, the Respiratory Care Board of California,
24 Department of Consumer Affairs received an application for a Respiratory Care Practitioner
25 License from NANETTE GRACE VILLONES (Respondent). On or about June 24, 2006,
26 Nanette Grace Villones certified under penalty of perjury to the truthfulness of all statements,
27 answers, and representations in the application. The Board denied the application on October 23,
28 2006. On or about October 30, 2006, Respondent requested a hearing to contest the denial of her

1 application for licensure.

2 **JURISDICTION**

3 3. This Statement of Issues is brought before the Respiratory Care Board
4 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
5 references are to the Business and Professions Code (Code) unless otherwise indicated.

6 4. Section 3710 of the Code provides, in pertinent part:

7 “The Respiratory Care Board of California, hereafter referred to as the board, shall
8 enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

9 5. Section 3718 of the Code states:

10 “The board shall issue, deny, suspend, and revoke licenses to practice respiratory
11 care as provided in this chapter.”

12 6. Section 3732 of the Code states, in pertinent part:

13 "...

14 "(b) The board may deny an application, or may order the issuance of a
15 license with terms and conditions, for any of the causes specified in this chapter for
16 suspension or revocation of a license, including, but not limited to, those causes
17 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

18 7. Section 3750 of the Code states, in pertinent part:

19 “The board may order the denial, suspension or revocation of, or the
20 imposition of probationary conditions upon, a license issued under this chapter, for any of
21 the following causes:

22 "...

23 “(d) Conviction of a crime that substantially relates to the qualifications,
24 functions, or duties of a respiratory care practitioner. The record of conviction or a
25 certified copy thereof shall be conclusive evidence of the conviction.

26 "...”

27 8. Section 3750.5 of the Code states in pertinent part:

28 "In addition to any other grounds specified in this chapter, the board may

1 deny, suspend, or revoke the license of any applicant or license holder who has done any
2 of the following:

3 "(a) Obtained or possessed in violation of law, or except as directed by a
4 licensed physician and surgeon, dentist, or podiatrist administered to himself or
5 herself, or furnished or administered to another, any controlled substances as
6 defined in Division 10 (commencing with Section 11000) of the Health and
7 Safety Code, or any dangerous drug as defined in Article 2 (commencing with
8 Section 4015) of Chapter 9.

9 "...

10 "(d) Been convicted of a criminal offense involving the consumption or
11 self-administration of any of the substances described in subdivisions (a) and (b),
12 or the possession of, or falsification of a record pertaining to, the substances
13 described in subdivision (a), in which event the record of the conviction is
14 conclusive evidence thereof.

15 "..."

16 9. California Code of Regulations (CCR), title 16, section 1399.370,
17 states:

18 "For the purposes of denial, suspension, or revocation of a license, a crime
19 or act shall be considered to be substantially related to the qualifications, functions or
20 duties of a respiratory care practitioner, if it evidences present or potential unfitness of a
21 licensee to perform the functions authorized by his or her license or in a manner
22 inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but
23 not be limited to those involving the following:

24 "(a) Violating or attempting to violate, directly or indirectly, or assisting or
25 abetting the violation of or conspiring to violate any provision or term of the Act.

26 "..."

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1 **COST RECOVERY**

2 10. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the
4 board, the board or the administrative law judge may direct any practitioner or applicant
5 found to have committed a violation or violations of law to pay to the board a sum not to
6 exceed the costs of the investigation and prosecution of the case."

7 11. Section 3753.7 of the Code states:

8 "For purposes of the Respiratory Care Practice Act, costs of prosecution
9 shall include attorney general or other prosecuting attorney fees, expert witness fees, and
10 other administrative, filing, and service fees."

11 12. Section 3753.1 of the Code states:

12 "(a) An administrative disciplinary decision imposing terms of probation
13 may include, among other things, a requirement that the licensee-probationer pay the
14 monetary costs associated with monitoring the probation. "

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 **(Conviction of a Crime)**

17 13. Respondent's application is subject to denial under sections 3732,
18 subdivision (b), and 3750, as defined by section 3750, subdivision (d), of the Code; and
19 (CCR), title 16, section 1399.370, subdivision (a), in that Respondent was convicted of a
20 crime that substantially relates to the qualifications, functions, or duties of a respiratory
21 care practitioner. The circumstances are as follows:

22 a. On or about July 28, 1995, before the Superior Court of
23 the State of California for the County of Orange, Case Nos. 94WF1669 and
24 95NF1524, Respondent, was convicted on her own guilty plea of violating Penal
25 Code 182(1), Health and Safety Code sections 11379.6(a) [conspiracy to
26 manufacture of controlled substance], 11378 [possession for sale of controlled
27 substance] and 11379.6(a) [manufacturing of controlled substance], and was
28 sentenced, with enhancement, to 17 years in state prison.

1 b. The circumstances of the conviction are as follows: On or
2 about November 27, 1994, Respondent, along with other individuals, was arrested
3 at the C. S. Motel in the City of Cypress, County of Orange, for manufacturing and
4 possessing methamphetamine for the purpose of sale. At the time of her arrest,
5 Respondent, along with other individuals, was converting methamphetamine into
6 “ice” which is the smokable form of methamphetamine. In addition, Respondent,
7 along with other individuals, was in possession of over 20 pounds of
8 Methamphetamine.

9 c. On or about June 20, 1995, while Respondent was out on
10 bail awaiting sentencing for the November 27, 1994 conviction, Respondent was
11 arrested at the C. Motel in the City of Buena Park, County of Orange, for
12 manufacturing methamphetamine. At the time of her arrest, Respondent, along
13 with two other individuals, was in possession of chemicals, supplies and
14 equipments for processing and manufacturing methamphetamine. In addition,
15 Respondent did process methamphetamine into a pure crystalline form called “ice.”

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Conviction of a Crime Involving Possession of a Controlled Substance)**

18 **(Possession of a Controlled Substance)**

19 14. Respondent's application is further subject to denial under sections
20 3750.5, subdivision (a), as defined by section 3750.5, subdivision (d) of the Code; and
21 CCR, title 16, section 1399.370(a), in that she was in possession of a controlled substance,
22 to wit: methamphetamine, and was convicted of that crime, as more particularly described
23 in paragraph 13, above, which is incorporated by reference as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Denying the application of NANETTE GRACE VILLONES for a Respiratory Care Practitioner License;
2. Directing NANETTE GRACE VILLONES to pay the Respiratory Care Board of California the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: January 17, 2007

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant